

**BOOK REVIEW OF PRESIDENT EMERITUS DR. UGO MIFSUD
BONNICI, AN INTRODUCTION TO THE LAW OF EDUCATION (Malta
University Press 2013)**

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ABSTRACT¹²²⁷

This article shall examine two principal themes which each bear a reflection on the other. The first of these is the manner in which data protection and data privacy has evolved in Japan over time and how the Asian cultural context of respect towards the community has played a significant role in the formation of values relating to the protection of private life, including inter alia norms relating to data protection. In this respect, the second stream of this article shall reflect upon recent amendments to the Japanese Act of the Protection of Personal Information of 2003 and their implications on privacy and on the collection and commercialization of 'Big Data', in the context of the growing importance of Big Data in the entire world but also in Japan, which is linked to increasing computing power and more complex algorithms that allow for deeper data mining and information analysis.

KEYWORDS: LAW OF EDUCATION – TYPOLOGY OF NORMS – HISTORY OF EDUCATION LAW – EDUCATION ACT 1988 – MALTESE LEGAL SYSTEM

¹²²⁷ This book review was reviewed by Dr Georgine Schembri

BOOK REVIEW OF UGO MIFSUD BONNICI, *AN INTRODUCTION TO THE LAW OF EDUCATION* (MALTA UNIVERSITY PRESS 2013)

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An Introduction to the Law of Education is President Emeritus Ugo Mifsud Bonnici's latest introductory monograph on a specific branch of Maltese Law – the Law of Education. His previous books in this series include: *An Introduction to Cultural Heritage Law*, published in 2008 by Midsea Books and *An Introduction to Comparative Law* published earlier in 2004 by Malta University Press. He has also written various other scholarly works which are studied by students at the Faculty of Laws such as the authoritative *Il-Manwal tal-President* ("The President's Manual") written while Dr Mifsud Bonnici served as President of Malta, and *Kif Sirna Repubblika* ("How We Became a Republic") published in 1999 which both provide an insightful account of the post-independence development of constitutional law. In his career, President Emeritus Dr Mifsud Bonnici has been inextricably associated with education not only through his various academic and popular writings on the subject, but also because as a seasoned politician he has always covered the sector of education both as Shadow Minister for Education between 1972 and 1987, and Education Minister from 1987 till 1994. A number of the matters referred to in the book being reviewed are known to him, *di scienza propria*, as a painstaking researcher and eminent scholar, and because of his past political activism. Although President Emeritus Dr Mifsud Bonnici has authored excellent books on Maltese cultural heritage law, comparative law and others, I would hazard a guess and state that this latest book on the law of education is probably the one he cherishes most, given that during his eminent political career, he has lived and been inseparably linked to this subject; so much so that his name is synonymous to education. He now fascinatingly narrates all this in his latest *oeuvre*. His knowledge of the subject is not only comprehensive, but also personal. He has been directly involved as a key protagonist in the drafting, making and unfolding of the law on the subject in question. This places him in a very advantageous situation when compared to other writers, more so that he has authored the Education Act 1988 himself and was directly involved in its promulgation, in different areas of education such as University, primary schools, secondary schools, etc. These experiences assisted him in providing the reader with certain facts which he was directly privy to due to the various offices he has occupied in his very successful political career. This added value that the author brings in writing this volume and makes this contribution more interesting to read and more revealing of the actual reasoning behind the provisions of the Education Act, 1988 and as subsequently amended. The insight which he provides in the development of the

law of education is therefore original and provides more information than one would normally find in a government file or any other primary historical source. In this respect, to a certain extent, this book can be viewed as the first attempt by President Emeritus Dr Ugo Mifsud Bonnici at writing an autobiography. This is undoubtedly, the added value of this book.

In 2013 the Faculty of Laws carried out a review of all study-units offered in its law course and noted that a *lacuna* existed given that prior to October 2013 there was no study-unit dealing with the Law of Education offered in the Bachelor of Laws (Honours) degree course programme of studies. The volume written by President Emeritus Dr Ugo Mifsud Bonnici, *An Introduction to the Law of Education*, undoubtedly fills in this gap in legal literature and constitutes an indispensable tool of acquiring the necessary knowledge and legal formation on the law of education. This makes it a very welcome addition to Maltese legal literature. Following the publication of this book, the Faculty of Laws has introduced, in October 2013an elective study-unit on the law of education. Indeed, this monograph is the best textbook to accompany such a study-unit. The Faculty of Laws is thus very keen to see this book in print and read by our academics and students. It is indeed a learned and original contribution to legal and human knowledge.

In so far as the book's layout is concerned, it is divided into an introduction, five chapters and a conclusion. In the Introduction, President Emeritus Mifsud Bonnici provides the reader with a discussion of the philosophies inspiring the law of education, the evolution of education throughout the centuries, starting from 2200 BC to more recent times. He contextualises the role played by international human rights instruments in the development of the law of education, and studies the influence of Canon Law on secular educational law from the period when President Emeritus Dr Ugo Mifsud Bonnici served as Minister responsible for education and beyond till to date.

Chapter One provides a typology of norms in the education sector and Chapter Two is a historical chapter that narrates how the law of education evolved under the period of the Knights of St John till the current Education Act of 1988. Chapter Three is devoted entirely to a study of the Education Act as enacted in 1988 and as subsequently amended to date, including all subsidiary legislation made thereunder. Chapter Four provides an international dimension to the law of education. And, Chapter Five is a shorter chapter concentrating on education at civil law.

Lastly, in the Conclusion, President Emeritus Dr Ugo Mifsud Bonnici stresses the need for the law to be universally taught and studied. He states that for homo

sapiens, law provides the backbone to rational governance and links law to values when he opines that law has to comply with reason and the ethical imperative and that ethics cannot be put aside. Notwithstanding its importance to society, he laments that education law is not given its due importance within the curriculum of advanced school systems. The state is thus encouraged to see that the law be taught to those who are starting to learn their civic duties; and what better way and tool to use to teach the law of education to all and sundry than by reading President Emeritus Dr Ugo Mifsud Bonnici's *An Introduction to the Law of Education*?

The Salient Points of the Book under Review

I now address – specifically – some additional salient points of the book. This is the first book written on the Maltese law of education though surely not the first manuscript related to education in general and the law of education in particular as the book's Bibliography well illustrates. It is a very comprehensive publication spread over four hundred pages of text and it covers all the manifold aspects of the law, whether primary or secondary. It is illustrated with case law which has never been compiled or published before in a single work. The monograph has an international dimension and studies also the law of education from an administrative perspective. However, this *opus* is not only a compilation of relevant education laws. It goes beyond that as, in addition thereto, it also contains a theoretical part which places the law of education within a doctrinal framework. It is up to date book as can be evidenced from the analysis provided in Chapter Four related to European Union law; for even in the realm of education the European Union has left its mark. The book flows well, and is consistently organised and is written in an accessible language which makes it easy to follow even for a person who does not necessarily have a legal background. It is one of those books on a legal subject which is not specifically addressed to the legal profession but to the intelligent man and woman keen to learn a subject that concerns society. At the same time, the book can be of immense assistance to educators, schools administrators, historians of education law, the judiciary, advocates, law students and public officers who carry out their duties in the realm of education, teachers, University of Malta lecturers and the general public who nurture a keen interest in educational affairs.

President Emeritus Dr Mifsud Bonnici expresses his thoughts clearly. He goes straight to the point and does not waste time in excessive verbosity or in difficult passages of comprehension. The book contains references to Maltese and foreign cases on educational law which gives it an empirical tinge when contrasted to the theoretical background set out in the first chapter of the monograph that deals with the philosophy of education law. Given its content, this contribution fits

nicely not only under the categories of education law, education and law but also within the ambit of Maltese *melitensia* and international and European Union Law.

This publication has a high academic value. It appeals to foreign academics and students who want to know about the law of education in Malta, and its comparative aspects to other nations' laws of education.

One significant feature of this book is that it brings two important aspects of social life together – law and education. Edmund Burke once wrote that 'In no country perhaps in the world is the law so general a study ... that renders men acute, inquisitive, dexterous, prompt in attack, ready in defence, full of resources ... They augur misgovernment at a distance, and snuff the approach of tyranny in every tainted breeze'.¹²²⁸ The book has gone beyond all this in so far as the depth of knowledge on the law of education is concerned while, at the same time, embodying all the skills listed by Burke above in regard to education. According to B.F. Skinner, 'education is what survives when what has been learnt has been forgotten'.¹²²⁹ To a certain extent, this happens in the study of the law. For what remains in one's mind after six years of study of law at University is really not much the detail of the law, but the principles behind that detail. It is the norm behind a legal provision which brings about the values enshrined by society as written down in the law. This is what President Emeritus Dr Ugo Mifsud Bonnici's book achieves superlatively when it identifies legal values as incorporated in one branch of the law, namely that of the law of education. For without values there can be no democratic society and civilization, and where there is no democratic and civilised society than can be no rule of law. As the Roman adage runs: *ubi societas ibi ius* – where there is society, there is law. Three ingredients are thus necessary for a study of the law, including the law of education – a society, civilization and values. It is these indispensable elements which make the law of education worth studying and it is exactly what the book we are launching today achieves.

The Education Act and Educational Law are not one and the same thing, however. The latter comprises the former but not vice-versa. Education Law goes beyond the Education Act. This is because Maltese Education Law is not only found in the Education Act but is spread all over the Maltese statute book and contained in various laws. This monograph thus provides a good grounding to Education Law both in the Education Act and other spectra of branches of the law; ranging from constitutional law to employment law, public international law to comparative law, legal history to philosophy of law, and from civil law to

¹²²⁸ Elizabeth Knowles, *The Oxford Dictionary of Quotations* (3rd edn, OUP 1980) 109.

¹²²⁹ *ibid* 508.

administrative law. In a nutshell, it can be safely stated that this book which covers in great depth the Education Act has a spill over effect into other branches of Law which are nonetheless irremediably intertwined with Education Law. This is what makes the book a very interesting one to own and to read as it covers Education Law in its wholeness and uniqueness.

Thank you President Emeritus Dr Ugo Mifsud Bonnici for your invaluable services and for enriching us with a wonderful book which you have regaled us like this!